

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on April 15, 2009, which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2 and 4-10 remain in this application, where claims 3 and 11 had been previously canceled without prejudice. Claim 1 is independent.

In the Final Office Action, claims 1-2 and 4-10 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,764,619 (Nishiuchi) in view of U.S. Patent Application Publication No. 2002/0006105 (Usami). Applicants respectfully traverse and submit that claims 1-2 and 4-10, as amended, are patentable over Nishiuchi and Usami for at least the following reasons.

Nishiuchi is directed to an optical information recording medium having at least two information layer and guide grooves for tracking. A first information layer, formed by a thin film for

reflecting a portion of a light beam made incident on the first substrate and permitting penetration of a portion of the light beam, is formed on a surface of the first substrate. A second information layer having a reflectance higher than that of the first information layer is formed on a surface of a second substrate.

Usami is directed to an optical data recording medium with a transparent substrate in which a pre-groove having a depth of 20 to 100 nm is formed. A dye recording layer is provided having a thickness at a groove portion of 50 to 160 nm and a thickness at a land portion of at least 80% of the thickness at the groove portion.

It is respectfully submitted that Nishiuchi, Usami, and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1 which, amongst other patentable elements, recites (illustrative emphasis provided):

characterized in that the first L0 guide groove has a depth GL_0 in the range $25\text{ nm} < GL_0 < 40\text{ nm}$, and the first reflective layer comprises a metal and has a thickness $> 50\text{ nm}$ so that a modulation M of 75% and a reflection level of 70% are obtained, wherein the modulation is $M = (R_{\text{no-mark}} - R_{\text{mark}}) / R_{\text{no-mark}}$, R_{mark} and $R_{\text{no-mark}}$

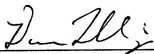
being reflection levels from a read out laser beam when respectively a written mark and no mark are present.

The particular multi-stack optical data storage medium having a modulation M of 75% and a reflection level of 70%, as recited in independent claim 1, is nowhere disclosed or suggested in Nishiuchi and Usami, alone or in combination. Accordingly, it is respectfully requested that independent claim 1 be allowed. In addition, it is respectfully submitted that claims 2 and 4-10 should also be allowed at least based on their dependence from amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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